IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVILJURISDICTION

CUSTOMS APPEAL NO. 77 OF 2007

The Commissioner of Customs (Preventive)
Mumbai .. Appellant

Versus

Foto Centre Trading Co .. Respondent

Mr.A.S.Rao for the Appellant

Mr.Manoj Sanklecha for Respondent

CORAM: F.I.REBELLO AND
R.S.MOHITE, JJ
DATED: 30TH NOVEMBER, 2007

PC

1. The goods in question admittedly are cameras with zoom lens and flashes. They admittedly are non-notified goods. The law as now settled in such matters in respect of non-notified goods is that the burden is on the revenue to establish that these are smuggled goods. In the appeal memo itself under ground no. (i) the revenue has referred to a judgment of the Division Bench of this Court in Customs Appeal No.11 of 2006 decided on 8th March, 2006 in the case of Commissioner of Customs vs M/s Aakash Enterprises where the issue of burden of proof was an issue. The S.L.P. preferred has subsequently been dismissed by an order of the Hon'ble Supreme Court on 10th July, 2007.

2. On behalf of the appellant, the learned counsel submits that the confessional statement were retracted after a period of about 4 months and in these circumstances it was open to the adjudicating authority to have considered the statements as retracted. Even if we held that the retracted statements could be considered the law again as settled is that there must be other corroborative evidence. In the instant case, counsel for the revenue fairly admits that there is no other corroborative evidence.

3. Considering the above in our opinion,these been purely findings of fact no questions of law wouldarise, consequently, appeal stands dismissed. There shall be no order as to costs.

(F.I.Rebello,J)

(R.S.Mohite, J)